

Deposition of Gloria Millsan

HERCULES MARINE SERVICES CORPORATION VS. BOB CASALES

PAGE 1 TO PAGE 76

GLORIA MILLSAP - 2/11/98

DEVANEY REPORTING SERVICE

**CONDENSED TRANSCRIPT AND CONCORDANCE
PREPARED BY:**

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(1) IN THE DISTRICT COURT OF BRAZORIA COUNTY, TEXAS
 (2) 239th JUDICIAL DISTRICT
 (3) HERCULES MARINE SERVICES
 (4) CORPORATION
 (5)
 (6)
 (7) VS.
 (8) No. 96-G0201
 (9)
 (10) BOB CASALE
 (11) DEPOSITION OF GLORIA MILLSAP
 (12) On February 11, 1998, beginning at 10:10
 (13) a.m., in the Brazoria County Courthouse, Room
 (14) 318A, Angleton, Texas, before me, Barbara DeVaney,
 (15) Certified Shorthand Reporter and Notary Public in
 (16) Harris County, for the State of Texas, appeared
 (17) GLORIA MILLSAP, who being by me first duly sworn,
 (18) gave her oral deposition in said cause pursuant to
 (19) notice and subpoena.

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(2) STIPULATIONS FOR THE DEPOSITION OF
 (3) GLORIA MILLSAP
 (4) TAKEN ON: February 11, 1998
 (5) BEGINNING: 10:10 a.m.
 (6) SIGNATURE:
 (7) 1. () Is waived.
 (8) 2. (X) The witness shall read and sign this
 (9) deposition before any notary by:
 (10) (X) reading copy and signing an
 (11) affidavit.
 (12) () coming to the reporter's office.
 (13) 3. () If the original deposition is released from
 (14) the reporter's possession to obtain
 (15) signature and is not returned for timely
 (16) delivery to the custodial attorney, a copy
 (17) may be used, unsigned and uncorrected. It
 (18) is also understood that in the event it is
 (19) not returned, the court reporter assumes no
 (20) further responsibility for the original
 (21) deposition.
 (22) OBJECTIONS:
 (23) 1. (X) All objections will be made in accordance
 (24) with the Texas Rules.
 (25) 2. () All objections will be made in accordance
 (26) with the Federal Rules.
 (27) 3. () Other
 (28) DELIVERY OF CERTIFICATE PAGES:
 (29) 1. () To be delivered with return receipt.
 (30) 2. (X) Delivery requiring return receipt waived.

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(1) APPEARANCES
 (2) MR. JOHN T. McDOWELL of the law firm of
 (3) McDowell Collier, L.L.P., 1301 McKinney, Suite
 (4) 3700, Houston, Texas 77010, appearing on behalf
 (5) of Bob Casale.
 (6) MR. MR. BRUCE STANFILL of the law firm of
 (7) Beirne, Maynard & Parsons, L.L.P., 1300 Post Oak
 (8) Boulevard, Suite 2500, Houston, Texas 77056,
 (9) appearing on behalf of Hercules Marine Services
 (10) Corporation.
 (11) MR. BRYAN A. DOMING of the law firm of Griggs
 (12) & Harrison, P.C., 1301 McKinney, Suite 3200,
 (13) Houston, Texas 77010, appearing on behalf of
 (14) Hercules Marine Services Corporation.
 (15) ALSO PRESENT: Mr. Bob Casale
 (16) Mrs. Stella Casale
 (17)
 (18)
 (19)
 (20)

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(1) INDEX
 (2) THE WITNESS: GLORIA MILLSAP
 (3) EXAMINATION: PAGE
 (4) By Mr. McDowell 5
 (5) By Mr. Stanfill 73
 (6) EXHIBITS:
 (7) None marked

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- (1) GLORIA MILLSAP, after having been first
- (2) duly sworn, testified as follows:
- (4) EXAMINATION
- (5) BY MR. McDOWELL:
- (6) Q Would you state your full name, please.
- (7) A Gloria Millsap.
- (8) Q Ms. Millsap, my name is John McDowell. I
- (9) don't believe you and I have ever met before,
- (10) have we?
- (11) A No.
- (12) Q You understand I represent Bob and Stella
- (13) Casale in a lawsuit that originally was filed
- (14) by Hercules against them and then they filed a
- (15) counter suit against Hercules; you understand
- (16) that?
- (17) A Yes.
- (18) Q Were you aware of the existence of this
- (19) lawsuit prior to your deposition here today?
- (20) A Yes.
- (21) Q How old are you, ma'am? Sorry. I need your
- (22) date of birth.
- (23) A 12-4-45.
- (24) Q That way we don't have to say how old we are.
- (25) A That's okay. I'm 52.

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- (1) Q Your current address?
- (2) A 418 Garland, No. 142, in Lake Jackson.
- (3) Q And zip code?
- (4) A 77566.
- (5) Q Phone number?
- (6) A 409-297-6415.
- (7) Q Have you ever given any kind of sworn
- (8) testimony before, Ms. Millsap?
- (9) A Not that I recall.
- (10) Q I know that you have given some testimony in
- (11) regard to a criminal investigation -
- (12) A Oh, yes, I have. Okay. Grand jury.
- (13) Q I just want to know if that was sworn
- (14) testimony?
- (15) A Yes, it was.
- (16) Q It is improper for me to ask you the substance
- (17) of your grand jury testimony in that form.
- (18) But I may ask you some of the very same
- (19) questions that you were asked in the grand
- (20) jury. Will you keep in mind that during the
- (21) course of this deposition today, none of the
- (22) lawyers involved are asking you to disclose
- (23) what you told the grand jury. We are asking
- (24) you questions with regard to this lawsuit that
- (25) may or may not have some of the same answers.

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- (1) Do you understand?
- (2) A I understand.
- (3) Q You received a subpoena to testify here today,
- (4) correct?
- (5) A Yes, I did.
- (6) Q And you are here pursuant to that subpoena?
- (7) A Uh-huh.
- (8) Q You need to answer yes or no if you can,
- (9) please.
- (10) A Okay.
- (11) Q Let me give you a few ground rules about what
- (12) we're doing here today. We're taking your
- (13) deposition to find out what sort of
- (14) information, if any, you have that relates to
- (15) this lawsuit between these two parties. Do
- (16) you understand that?
- (17) A Yes.
- (18) Q And you understand that the questions that I
- (19) give you and the answers that you give are
- (20) taken down by our court reporter; you
- (21) understand that?
- (22) A Yes.
- (23) Q And if you say something that's not true,
- (24) you're subject to the same pains and penalties
- (25) of perjury here in this conference room in the

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- (1) courthouse as you would be if we were in front
- (2) of Judge Gayle and the jury. Do you
- (3) understand that?
- (4) A Yes.
- (5) Q If at any time during the course of this
- (6) deposition - and I mentioned this to you
- (7) before we got started - you need to take a
- (8) break - I understand your mother is ill, and
- (9) I'm very sorry about that, but we've got to
- (10) continue on with this process. But if you
- (11) need to take a break, you let me know, and you
- (12) can make phone calls or do whatever you need
- (13) to do. Okay?
- (14) A Yes.
- (15) Q If you hear a question that you think is
- (16) unfairly worded or a question that you don't
- (17) understand or you don't think you can answer
- (18) in the form in which it is given, will you
- (19) stop me and ask me to rephrase it, and I will.
- (20) A Okay. Yes.
- (21) Q I'm going to assume that the answers that you
- (22) give me are answers to the questions that I
- (23) ask. Is that fair enough?
- (24) A Yes.
- (25) Q Ms. Millsap, tell me a little bit about your

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- (1) educational background, please.
- (2) A High school graduate, business diploma from a
- (3) business college.
- (4) Q And when did you graduate from the business
- (5) college?
- (6) A 1966.
- (7) Q Whereabouts did you grow up?
- (8) A Cuero, Texas.
- (9) Q How long have you lived in the Brazoria County
- (10) area?
- (11) A 20 plus years.
- (12) Q Are you married?
- (13) A I'm divorced.
- (14) Q Do you have children?
- (15) A Yes.
- (16) Q How many and what are their ages?
- (17) A Two, 30 and 24.
- (18) Q Does anyone else live with you at 418 Garland?
- (19) A A little dog.
- (20) Q Okay. The reason that you have been
- (21) subpoenaed to testify here today is with
- (22) regard to your former employment at Hercules.
- (23) I understand that you don't work there
- (24) anymore; is that correct?
- (25) A That's correct.

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- (1) Q Tell me when you went to work for Hercules.
- (2) A I went to work for them December 4th, 1996,
- (3) 5th, actually.
- (4) Q December 5th?
- (5) A December 5th, 1996.
- (6) Q And where did you work prior to working for
- (7) Hercules?
- (8) A The Dow Chemical Company.
- (9) Q What did you do for Dow?
- (10) A I was a community relations coordinator.
- (11) Q How long did you work for Dow?
- (12) A 19 plus years.
- (13) Q Did you take an early retirement from Dow or
- (14) why did you leave the job?
- (15) A Downsizing.
- (16) Q While you were working for Dow in community
- (17) relations prior to December of '96, during
- (18) that period of time, were you aware or
- (19) familiar with the operations of Hercules in
- (20) any way?
- (21) A No, sir.
- (22) Q Did you play any role, Ms. Millsap, in Dow's
- (23) decisions to use or not use Hercules with
- (24) regard to barge cleaning service and
- (25) operations?

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- (1) A No, sir.
- (2) Q Don't know anything about that?
- (3) A No, sir.
- (4) Q How did you find out that a job was available
- (5) at Hercules?
- (6) A Newspaper, Brazosport Facts.
- (7) Q You answered or responded to an ad in the
- (8) newspaper?
- (9) A Yes.
- (10) Q When you responded to that ad, who did you
- (11) visit with initially at Hercules?
- (12) A Al Herbert.
- (13) Q Is it H-E-R-B-E-R-T?
- (14) A Yes.
- (15) Q Tell me what his position was in December of
- (16) 1996.
- (17) A Human resources.
- (18) Q Was he -- did he office in the Houston office
- (19) or down here locally?
- (20) A No, locally, Freeport.
- (21) Q At the facility on the Intracoastal Canal?
- (22) A Yes.
- (23) Q Did you go in for a job interview with Mr.
- (24) Herbert?
- (25) A Yes, sir.

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- (1) Q Was there anyone else present at that
- (2) interview?
- (3) A No.
- (4) Q What was the title of the job that you were
- (5) applying for?
- (6) A Administrative assistant.
- (7) Q Did Mr. Herbert give you more of a description
- (8) of what that job would entail during that
- (9) initial interview?
- (10) A Yes.
- (11) Q Who was the person that you understood you
- (12) were replacing? Do you know the name of the
- (13) person?
- (14) A I was not aware that I was replacing anybody.
- (15) There was an opening.
- (16) Q Was it a new position that had been created or
- (17) do you know?
- (18) A No.
- (19) Q Do you know what happened to the
- (20) administrative assistant that was there prior
- (21) to you starting?
- (22) A I believe she quit.
- (23) Q Do you know her name?
- (24) A Jerrie, I believe.
- (25) Q Do you know her last name?

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- (1) A I can't recall her last name.
- (2) Q Do you know what the reasons were for her
- (3) quitting or terminating or anything with
- (4) regard to that?
- (5) A No.
- (6) Q When you were interviewing with Hercules, can
- (7) you tell me kind of the - what the chain of
- (8) command was out there in terms of who was in
- (9) charge of the operations and who reported to
- (10) who, that sort of thing?
- (11) A Larry Ballinger was the manager. I
- (12) interviewed with Larry, as well.
- (13) Q Was he present in the first interview with Mr.
- (14) Herbert or a second interview?
- (15) A No.
- (16) MR. STANFILL: I'm not sure that
- (17) answer came out clear.
- (18) Q (BY MR. McDOWELL) Why don't you explain to me
- (19) how it worked.
- (20) A Okay. Well, Al Herbert looked over my
- (21) credentials, brief interview with Al. Then I
- (22) had to meet with Mr. Ballinger.
- (23) Q On the same occasion but in a different
- (24) office?
- (25) A Exactly.

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- (1) Q And was anyone else present with your
- (2) interview with Mr. Ballinger?
- (3) A No, sir.
- (4) Q How did Mr. Ballinger describe the job to you?
- (5) A Basically it was office administration,
- (6) running the office, office manager type,
- (7) invoicing, taking job orders, payroll,
- (8) purchasing duties, general correspondence,
- (9) just general office administration.
- (10) Q Were there any other office employees out
- (11) there besides yourself?
- (12) A Not at the time that I was initially hired.
- (13) Q It was a one-girl office, so to speak?
- (14) A Yes.
- (15) Q You did everything?
- (16) A Yes.
- (17) Q From making the coffee to ordering the
- (18) supplies and doing the paperwork?
- (19) A Yes.
- (20) Q Who else worked out there besides Larry
- (21) Ballinger?
- (22) A Okay. It was a one-girl office up until
- (23) sometime I think late January or early
- (24) February, a part-time person was hired.
- (25) Q And that would have been 1996 - or '77?

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- (1) A '97, early '97.
- (2) Q Okay. Well, let's talk about the time period
- (3) prior to that when you were the office
- (4) administrator.
- (5) A Okay.
- (6) Q Give me the chain of command.
- (7) A Okay. Larry Ballinger, manager. I was
- (8) office - administrative assistant; and then
- (9) the people outside, which were operators or
- (10) hourly personnel I would have to refer to them
- (11) as.
- (12) Q Was there a shift foreman or a manager of the
- (13) hands, anything in between the hands and Larry
- (14) Ballinger?
- (15) A There was a, my understanding, a welding
- (16) foreman over the welders and a barge cleaning
- (17) foreman.
- (18) Q Who were those individuals?
- (19) A The welder foreman was Daniel Hernandez and
- (20) barge cleaning foreman was Claudio Duarte.
- (21) Q When did your employment with Hercules end?
- (22) A January 14th.
- (23) Q 1998?
- (24) A Uh-huh.
- (25) Q How did you know it had ended? Did you quit

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- (1) or were you terminated?
- (2) A No. I was on a day of vacation that day
- (3) visiting my mother in a hospital in Victoria.
- (4) I returned about 12:30 in the morning and had
- (5) a message on my recorder.
- (6) Q Message from -
- (7) A Jimmy Jackson.
- (8) Q What did the message say?
- (9) A Basically that at noon today, they had
- (10) closed - let everybody go and for me to go
- (11) the following day and get my things.
- (12) Q Okay. So it was your understanding from the
- (13) message from Mr. Jackson that the entire
- (14) facility was closing down?
- (15) A No. That's not what I understood. I
- (16) understood that they let everybody go. He
- (17) didn't say they closed the doors.
- (18) Q Okay. But they let all of the employees go at
- (19) the Intracoastal Canal facility?
- (20) A Uh-huh.
- (21) Q You need to answer yes or no.
- (22) A Yes.
- (23) Q Okay. Now let's go back and talk a little bit
- (24) about when you hired a part-time employee.
- (25) A Okay.

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- (1) Q Was this someone you interviewed and hired?
- (2) A I sat in on the interview.
- (3) Q Who was the part-time employee?
- (4) A Dolores Painter.
- (5) Q And how long did Dolores Painter work for
- (6) Hercules?
- (7) A A couple of months, approximately a couple of
- (8) motor.
- (9) Q Do you know why she left?
- (10) A Personal problems.
- (11) Q Do you know where she is now?
- (12) A No.
- (13) Q If you were going to look for her, where is
- (14) the first place you would look?
- (15) A Rephrase that question. I don't want you
- (16) to - I mean, I don't know where she is. I
- (17) know where she -
- (18) Q Was?
- (19) A - moved to when she left.
- (20) Q Okay. That's what I'm trying to find out.
- (21) A Okay. Oklahoma.
- (22) Q Where in Oklahoma?
- (23) A I don't recall.
- (24) Q Was she married?
- (25) A I don't know.

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- (1) Q Children?
- (2) A Yes.
- (3) Q Did she have family in Oklahoma that you knew
- (4) of?
- (5) A Yes.
- (6) Q Do you know who any of those people were by
- (7) name?
- (8) A No.
- (9) Q And you don't know where in Oklahoma?
- (10) A No, I don't.
- (11) Q Left no forwarding address?
- (12) A Yes, she did.
- (13) Q There is a forwarding address at Hercules
- (14) somewhere?
- (15) A As far as I know, yes.
- (16) Q There was -
- (17) A There was one.
- (18) Q There was when you left?
- (19) A Yes.
- (20) Q Okay. Did you hire another part-time employee
- (21) after she left?
- (22) A One was hired. I was not there when that
- (23) occurred.
- (24) Q Where were you?
- (25) A I was on - my dad was very ill and I was in

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- (1) Victoria in the hospital day and night.
- (2) Q So they hired somebody else while you were
- (3) away?
- (4) A Yes.
- (5) Q Who was that person?
- (6) A Diana Peters.
- (7) Q And how long did Diana Peters work there?
- (8) A Until the doors - until we were laid off.
- (9) Q Do you know where she is currently? I don't
- (10) mean right this minute. I mean do you know
- (11) where she lives?
- (12) A In Brazoria, Texas.
- (13) Q Is she married?
- (14) A Yes.
- (15) Q Do you know her husband's name?
- (16) A I'm being facetious. I don't know if she's
- (17) married. I just know what she told me. It's
- (18) Robert Peters.
- (19) Q Robert Peters. Okay. Do you know her phone
- (20) number?
- (21) A 798-4162, I believe.
- (22) Q During the course of the little over a year
- (23) that you worked at Hercules, were there any
- (24) other office employees other than the ones
- (25) we've talked about?

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- (1) A There was a temporary person that came in
- (2) while I was gone between Dolores and Diana.
- (3) But I believe she may have been there a couple
- (4) of weeks.
- (5) Q Any other employees?
- (6) A Not that I remember.
- (7) Q Okay. Ms. Millsap, tell me when you first
- (8) found out that there was litigation or a
- (9) lawsuit between Hercules and the Casales.
- (10) A December of '96.
- (11) Q Okay. How did you find out?
- (12) A I had to gather some information.
- (13) Q Who asked you to gather the information?
- (14) A Larry Ballinger.
- (15) Q What did he tell you?
- (16) A Just to pull out some files, basically.
- (17) Q Okay.
- (18) A I think one of them was files for a specific
- (19) year. I believe that was in '96; just to pull
- (20) files, but I wasn't told, you know, what it
- (21) was for. I just needed to pull some files.
- (22) And I would pull the files and bring them to
- (23) him.
- (24) Q Do you remember how the files were described
- (25) to you that you needed to pull?

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- (1) A No. They just were general purchasing files,
- (2) general job order files, just general records.
- (3) Q Were you ever given a list or a description of
- (4) files that you needed to pull that you kind of
- (5) checked off that you were getting everything?
- (6) A No.
- (7) Q He just told you which files to pull?
- (8) A Verbally.
- (9) Q Verbally?
- (10) A Uh-huh.
- (11) Q Were there any files that you pulled that he
- (12) put back, that he segregated in any way?
- (13) MR. STANFILL: Let me find out.
- (14) Was this to respond to a request in the
- (15) lawsuit?
- (16) THE WITNESS: Yes.
- (17) MR. STANFILL: Okay. Then keep
- (18) going. But I may have some objections at some
- (19) point here.
- (20) Q (BY MR. McDOWELL) Were there any files that
- (21) he segregated out and put back?
- (22) A No.
- (23) Q Was he pulling files, as well?
- (24) A No.
- (25) Q Did you all have any discussions about these

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- (1) files as you pulled them out?
- (2) A No.
- (3) Q You just pulled files, gave them to him,
- (4) correct? Or tell me how it worked.
- (5) A No.
- (6) Q Tell me how it worked.
- (7) A I didn't give them to him. The job order
- (8) files that I had to pull, I pulled them out
- (9) for the whole year, put them in a box, labeled
- (10) what they were, and then they were sent to --
- (11) Q The lawyers, probably.
- (12) MR. STANFILL: Right.
- (13) A I'm trying to remember the firm.
- (14) MR. STANFILL: Me, Bell & Murphy.
- (15) THE WITNESS: Sorry.
- (16) MR. STANFILL: No problem.
- (17) Q (BY MR. McDOWELL) And that was all that you
- (18) had to do with the gathering of those
- (19) documents, is you pulled files, put them in a
- (20) box and sent them to the lawyers?
- (21) A Uh-huh.
- (22) Q Correct?
- (23) A Right. Yes.
- (24) Q Did you and Mr. Ballinger have any discussions
- (25) about any specific files?

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- (1) A No.
- (2) Q Did Mr. Ballinger give you any information at
- (3) that time about what the subject matter of the
- (4) lawsuit was?
- (5) A Not -- when you say subject matter, just that
- (6) there was a problem. Mr. Casale has been a
- (7) very unhappy camper at his residence and
- (8) basically that was -- but I was aware of that,
- (9) you know, on my own prior to.
- (10) Q How were you aware of that on your own?
- (11) A Newspaper.
- (12) Q Well, what had you read in the newspaper?
- (13) A Oh, just Mr. Casale, I believe, had gone
- (14) before city council -- I don't recall the
- (15) year -- and had voiced his personal opinions
- (16) about the Intracoastal Waterway operations.
- (17) Q And specifically with regard to pollution by
- (18) Hercules? Do you remember any allegations
- (19) with regard to that?
- (20) A No.
- (21) Q You're talking about the wiggles area of the
- (22) Intracoastal Waterway and those complaints
- (23) where it makes a series of S turns?
- (24) A Yes, I read that. I'm aware of that. But --
- (25) well, you used a word pollution. I don't know

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- (1) that that was in the article, but just
- (2) complaints about Hercules.
- (3) Q With regard to releasing gas and/or
- (4) sandblasting and/or dumping things in the
- (5) water, that kind of thing?
- (6) A I don't recall that.
- (7) Q Okay. You just remember there being some
- (8) complaints about Hercules' operations?
- (9) A Uh-huh.
- (10) Q Correct?
- (11) A Uh-huh. Yes.
- (12) Q So you went out to Hercules already being
- (13) aware of that?
- (14) A That has nothing to do with me going out to
- (15) Hercules.
- (16) Q I'm just trying to find out if you knew about
- (17) the Casale-Hercules dispute before you went to
- (18) work there. That's all.
- (19) A No, I did not.
- (20) Q So you learned about it through the newspaper
- (21) after you went to work there?
- (22) A Okay. Let me rephrase this.
- (23) Q Please. Go ahead.
- (24) A Let me just tell you. My experience as a
- (25) citizen that reads the newspaper, I am aware

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- (1) that Mr. Casale, with all due respect,
- (2) complains, is very unhappy about a lot of
- (3) things in the area, period. Okay?
- (4) Q Okay.
- (5) A That's all.
- (6) Q And you learned that that had more to do with
- (7) Hercules after you went out there?
- (8) A Exactly. Yes.
- (9) Q Did you know that Hercules had sued Mr. Casale
- (10) for lost profits?
- (11) A No, I didn't know that.
- (12) Q When did you find that out?
- (13) A Well, actually, maybe a couple of months ago.
- (14) Q Okay.
- (15) A I realized that - how it really - who filed
- (16) or who or what. So I just realized, I think,
- (17) Hercules did it first and then I think he
- (18) countered. But I didn't really know the full
- (19) exact events the way they occurred.
- (20) Q Do you know of any business that Hercules lost
- (21) as a result of Mr. Casale filing complaints?
- (22) A When you ask do I know, do I know personally
- (23) as far as being involved, no. But -
- (24) Q You have some hearsay information about that?
- (25) A Yes.

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- (1) Q Okay. I want to ask you about that, too.
- (2) What hearsay information do you have about
- (3) that?
- (4) A There have been various Dow employees that
- (5) have stated to me that Dow's business, you
- (6) know, to Hercules was removed because of Mr.
- (7) Casale's complaints.
- (8) Q Okay. Who? You said various Dow employees.
- (9) Who was that?
- (10) A Sam Dufhilo.
- (11) Q Can you spell his last name?
- (12) A D-U-F-H-I-L-O.
- (13) Q Is he still with Dow?
- (14) A No.
- (15) Q Do you know where he is now?
- (16) A No. Well - no, I don't. I know where he
- (17) was.
- (18) Q Where was he?
- (19) A A company in LaPorte.
- (20) Q A barge -
- (21) A That doesn't help you.
- (22) Q A barge company?
- (23) A No. No. Well, I don't know. I don't think
- (24) so. Another individual is Arnold Langston.
- (25) Q What did Mr. Langston tell you?

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- (1) A Mr. Casale complained every time there was a
- (2) Dow barge.
- (3) Q And therefore -
- (4) A At the site.
- (5) Q And therefore, they give no business to
- (6) Hercules, or did he just remark that Mr.
- (7) Casale had complained about the barge?
- (8) A Well, that was in the course of the
- (9) conversation.
- (10) Q Okay. Where is Mr. Langston now?
- (11) A Angleton.
- (12) Q Where does he work?
- (13) A I don't know. I know he's retired.
- (14) Q Anybody else with Dow?
- (15) A Oh, gosh. Let's see. I can't recall if
- (16) there's others now.
- (17) Q What about from any other companies?
- (18) A There is another individual, Harvey Ausman.
- (19) Q Is he with Dow?
- (20) A No.
- (21) Q Who is he with?
- (22) A Now he is with - I guess it's part of Dixie,
- (23) Kirby Marine or - I don't know what it's
- (24) called now.
- (25) Q He was with Dixie at the time?

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- (1) A Uh-huh.
- (2) Q You need to answer yes or no.
- (3) A Yes.
- (4) Q And what did Harvey Ausman tell you?
- (5) A It was just a statement made in the office
- (6) about Mr. Casale's complaints regarding every
- (7) time there was a Dow barge out there. Dow
- (8) just didn't want the visibility and the
- (9) involvement. Basically, that's just what he
- (10) meant - what he said.
- (11) Q Do you know who cleans Dow's barges now?
- (12) A No.
- (13) Q Do you know the difference in cyclohexane and
- (14) butanol?
- (15) A No.
- (16) Q Were you ever asked by Mr. Ballinger to put -
- (17) fill out a form and misdescribe the chemical
- (18) that was in the barge?
- (19) A No.
- (20) Q Was anyone else at Hercules, to your
- (21) knowledge?
- (22) A I don't know.
- (23) Q You know of no situations where a state form
- (24) was filled out incorrectly with regard to the
- (25) chemicals that were identified in the barges?

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- (1) A No, sir, I don't.
- (2) Q Do you know of any situations where Hercules
- (3) vented barges out into the atmosphere?
- (4) A No, sir, I don't.
- (5) Q Do you have any hearsay information about
- (6) that?
- (7) A No, sir, I don't.
- (8) Q To your knowledge, has Hercules ever
- (9) incorrectly submitted paperwork to the State
- (10) of Texas with regard to the barge-clearing
- (11) operations?
- (12) A No.
- (13) Q Do you have any hearsay information about
- (14) that?
- (15) A When you say hearsay -
- (16) Q Anyone ever told you that? Have you ever had
- (17) that discussion with anyone?
- (18) A I didn't have that discussion with anyone.
- (19) Well, a statement was made - I say a
- (20) statement - when you say hearsay - okay.
- (21) Jimmy Jackson, over coffee one morning, I
- (22) asked, you know, why - what's going on? What
- (23) is all this?
- (24) And it was - something was
- (25) mentioned that - something about some papers

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- (1) being filled out incorrectly. That's all.
- (2) Q Okay. That's the only involvement that you
- (3) had -
- (4) A As far as the hearsay about, you know, what
- (5) you just mentioned.
- (6) Q Well, do you remember a day last year when the
- (7) TNRCC investigators came out to your office
- (8) and asked you for some paperwork?
- (9) A Yes.
- (10) Q Do you remember Mr. Ballinger asking you to
- (11) hide some paperwork?
- (12) A No.
- (13) Q What did Mr. Ballinger ask you to do with
- (14) parts of the paperwork?
- (15) A Mr. Ballinger asked me to get the files, job
- (16) order files. He never asked me to remove any
- (17) papers or any files. He never asked me.
- (18) Q Okay. What did he ask you to do?
- (19) A Okay. Not to confuse you, I was on the phone.
- (20) Mr. Ballinger told Diana Peters to tell me to
- (21) pull the files out, look for the word
- (22) cyclohexane and just - in other words, you
- (23) know, just pull - put the file aside, I
- (24) guess, or just look for files that contained
- (25) the word cyclohexane.

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- (1) Q Okay. Let's kind of try to short circuit this
- (2) process, if we can.
- (3) A Yeah.
- (4) Q The truth of the matter is that TNRCC people
- (5) came out to your office, correct?
- (6) A Yes.
- (7) Q They asked for your files, correct?
- (8) A Yes.
- (9) Q And Mr. Ballinger - you heard him tell Diane
- (10) Peters to go through the files, and anything
- (11) that was a cyclohexane file was pulled and put
- (12) aside, correct?
- (13) A No. I did not hear him say that. I was on
- (14) the phone.
- (15) Q Okay. Did Diane Peters tell you that's what
- (16) he said?
- (17) A Yes.
- (18) Q And Diane Peters told you that while she was
- (19) still working out there for Hercules?
- (20) A Yes.
- (21) Q And how did you respond to Ms. Peters when she
- (22) told you that?
- (23) A I just said pull the what files? And she said
- (24) the word cyclohexane. And I just said what
- (25) does he want? So all I did was went from

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- (1) January, you know, on and tried to find the
- (2) word cyclohexane.
- (3) Q From January of '96 through the time that the
- (4) TNRCC people were out there or when are you
- (5) talking about?
- (6) A He asked me to pull files.
- (7) Q Right.
- (8) A It's January of '97, I guess.
- (9) Q All right.
- (10) A Because the '96 files had been sent to -
- (11) we're talking about '97.
- (12) Q Okay.
- (13) A Okay. So all I did is started from January of
- (14) '97 and looked through each individual file,
- (15) and if I saw the word cyclohexane, I just kind
- (16) of made it stick out like this.
- (17) Q And then what happened to those files?
- (18) A Gave them to Mr. Ballinger.
- (19) Q And what did he do with them?
- (20) A He removed a couple of papers and left them on
- (21) a credenza and then took the files into his
- (22) office to Becky and Faye.
- (23) Q Becky and Faye with -
- (24) A TNRCC.
- (25) Q Okay. So he removed papers from the files

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- (1) that you pulled for him and then gave them to
- (2) TNRCC?
- (3) A Yes.
- (4) Q Do you know what papers he removed from them?
- (5) A No. I saw them but I don't know what their
- (6) purpose was or anything.
- (7) Q Do you know what form they were, what
- (8) description they had in them, anything with
- (9) regard to their contents?
- (10) A I think - no, I don't know. I can't say that
- (11) I know because I don't. I don't know what
- (12) kind of forms they are. I just know that it's
- (13) paperwork pertaining to that job order.
- (14) That's all.
- (15) Q You understand that the charges against Mr.
- (16) Ballinger are that he had forms filled out
- (17) that said butanol was in a barge when, in
- (18) fact, cyclohexane was in the barge? Do you
- (19) understand those to be the charges?
- (20) A No, I don't understand what the charges are.
- (21) Q Do you know anything about the charges against
- (22) Mr. Ballinger?
- (23) A No, I don't.
- (24) Q You know nothing about the charges against
- (25) Hercules?

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- (1) A Specifically, no, sir, I don't.
- (2) Q What about generally?
- (3) A Just what I've read in the newspaper.
- (4) Q And the information that you have with regard
- (5) to whether or not the paperwork was actually
- (6) withheld from them is all you've told me;
- (7) those sheets of paper that were taken out of
- (8) the cyclohexane files -
- (9) A That's all that I know.
- (10) Q Was it your understanding that - did Mr. -
- (11) let me start over.
- (12) Did Mr. Ballinger ever tell you
- (13) that he was hiding any information from the
- (14) TNRCC?
- (15) A No, sir.
- (16) Q Did he ever tell you he was hiding any
- (17) information from the Casales?
- (18) A No, sir.
- (19) Q Did he ever tell you that he didn't want the
- (20) Casales to have any of this information?
- (21) A No, sir.
- (22) Q The subject matter of the Casale lawsuit never
- (23) came up with regard to the TNRCC
- (24) investigation?
- (25) A No, sir.

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- (1) Q Tell me what kind of contact you had with the
- (2) people at BASF. Did you know any of the
- (3) people personally at BASF?
- (4) A What people are you asking about?
- (5) Q Anybody that had a business relationship with
- (6) Hercules, ma'am.
- (7) A I do not know Robert - I did not know Robert
- (8) Peters prior to going to work for Hercules or
- (9) any of the people that did business with
- (10) Hercules when they came to the premises, I
- (11) believe, in December or November, late
- (12) November. I do know Cecilia Jasper.
- (13) Q You're talking about when the BASF people came
- (14) to the premises?
- (15) A Yeah.
- (16) Q Why did they tell you they were there?
- (17) A They didn't tell me why.
- (18) Q Did you ask anyone why they were there?
- (19) A No, sir. That was not my job.
- (20) Q You didn't have that discussion with Mr.
- (21) Ballinger?
- (22) A No, sir.
- (23) Q When did Jimmy Jackson become the manager?
- (24) A Late May, mid May, mid May.
- (25) Q In mid May of 1997?

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- (1) A I believe.
- (2) Q Okay. To make sure that we have the correct
- (3) chronology, the TNRCC people came out to visit
- (4) you when? Do you remember when that was?
- (5) A Early May, May 5th, I believe.
- (6) Q And shortly after that was when Mr. Ballinger
- (7) was put on as a consultant, I believe?
- (8) A I don't know.
- (9) Q Was he still around in 1997?
- (10) A Yes.
- (11) Q Throughout the entire year?
- (12) A At times, yes.
- (13) Q Okay. Well, let's talk about how much time.
- (14) I mean, was he there every day for part of the
- (15) day? Was he there one day a week? How would
- (16) you describe it, ma'am?
- (17) A Let's see. Initially, he was there - let me
- (18) do some thinking. I believe Larry came back
- (19) on site approximately July, to the best of my
- (20) knowledge that I can recall.
- (21) Q July of '97?
- (22) A Okay. And initially, he was there like
- (23) approximately 20 hours per week. Then latter
- (24) part of the year, like September through
- (25) December, the latter part of the year, he was

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- (1) there quite a bit.
- (2) Q The latter part of 1997?
- (3) A Yes.
- (4) Q Every day?
- (5) A Roughly, yes.
- (6) Q And when is the last time you spoke with Larry
- (7) Ballinger?
- (8) A The last time I spoke to Larry was - I think
- (9) it was Monday, I think.
- (10) Q Monday of this week?
- (11) A Evening.
- (12) Q And that would have been day before yesterday?
- (13) A Yeah.
- (14) Q And what did you all discuss?
- (15) A I just called to see how he was doing and what
- (16) was going on. But he had been in Oklahoma.
- (17) Basically, that's all we discussed.
- (18) Q Okay. Are you and Mr. Ballinger friends?
- (19) A What do you mean are we friends?
- (20) Q I'm just trying to figure out the nature of
- (21) your - do you have a social relationship
- (22) outside of having worked with him?
- (23) A No.
- (24) Q You call him on Monday night two days before
- (25) your deposition. Do you talk to him weekly,

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- (1) monthly?
- (2) A Sir, I consider you my friend.
- (3) Q Thank you.
- (4) A I have just met you this morning and you are a
- (5) friend that I've met. I've never met a
- (6) stranger. And so -
- (7) Q I'm not being critical. I'm trying to find
- (8) out if this guy is somebody that you talk to
- (9) on a weekly basis, monthly basis, that sort of
- (10) thing?
- (11) A No. I hadn't talked to Larry since, gosh,
- (12) when I saw him in the office January 13th.
- (13) Q A month ago?
- (14) A Yeah. I hadn't talked to anybody. So I just
- (15) called to see how he was doing.
- (16) Q How is he doing?
- (17) A He's doing okay.
- (18) Q Did you talk about your deposition?
- (19) A Nope.
- (20) Q Did you talk about any of the facts or
- (21) circumstances with regard to the criminal
- (22) charges against him?
- (23) A No, sir.
- (24) Q Have you been asked by anyone to testify on
- (25) his behalf?

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- (1) A No.
- (2) Q Do you know of an instance when Mr. or Mrs.
- (3) Casale complained to a - any regulatory
- (4) authority or governmental agency and the
- (5) complaint was not true?
- (6) A Do I know of any instances?
- (7) Q Yes, ma'am.
- (8) A In gathering information for Larry, I
- (9) personally saw correspondence pertaining to
- (10) Mr. Casale making complaints about noise,
- (11) odor, and I personally saw reports that stated
- (12) there was no odor. There was - his
- (13) complaints were unfounded.
- (14) Q You understand that when Mr. Casale would
- (15) complain or if Mr. Casale complained to a
- (16) regulatory agency, that they sometimes would
- (17) come out and investigate those complaints?
- (18) A Yeah. Okay. You're saying regulatory agency.
- (19) The papers that I - well, yeah.
- (20) MR. STANFILL: Are you including
- (21) the fire department and the police department
- (22) in your definition of regulatory agencies?
- (23) MR. McDOWELL: Sure.
- (24) A Okay.
- (25) MR. STANFILL: Does that help?

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- (1) Q (BY MR. McDOWELL) There are situations where
- (2) Mr. Casale made a phone call to the police
- (3) department or the fire department, perhaps,
- (4) and when they came out and investigated, there
- (5) was not a problem when they investigated,
- (6) correct?
- (7) A Exactly.
- (8) Q And you take that as fact that it means it was
- (9) not happening when he called and made the
- (10) complaint?
- (11) A When I also see Dow personnel involved, yes, I
- (12) take that as a fact.
- (13) Q Tell me what you mean when you see Dow
- (14) personnel involved.
- (15) A Well, I saw names in this piece of
- (16) correspondence. One was Jim Overman's name,
- (17) where he - the complaint - the complaint was
- (18) made. Police department came out. Fire
- (19) department came out. Dow is always called if
- (20) there is a complaint regarding a Dow barge or
- (21) any Dow - or any time the name Dow is
- (22) mentioned.
- (23) Q Are you familiar with the CARE organization?
- (24) A Yes, I am.
- (25) Q And you know that Dow people serve on the CARE

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- (1) organization and are on 24-hour call with
- (2) regard to that, correct?
- (3) A Yes.
- (4) Q Are you saying these Dow people were contacted
- (5) independent of their involvement with the CARE
- (6) organization?
- (7) MR. STANFILL: Do you know?
- (8) Q (BY MR. McDOWELL) Or do you know?
- (9) A Ask me again.
- (10) Q Are you saying that these people from Dow were
- (11) contacted without regard to their association
- (12) with the CARE organization, that they were
- (13) contacted because it was a Dow barge that was
- (14) being complained of?
- (15) A They were contacted because it was a Dow
- (16) barge. And the correspondence stated that the
- (17) police department - that Dow was contacted.
- (18) Dow sent an ER, emergency response, or
- (19) environmental person to investigate the
- (20) complaint.
- (21) Q Okay. And this is correspondence regarding
- (22) one incident that you remember reading about?
- (23) A I saw more than one.
- (24) Q How many?
- (25) A Approximately three.

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- (1) Q Three complaints?
- (2) A Or notes on a complaint.
- (3) Q Do you know what the purpose of the thermal
- (4) oxidizer is?
- (5) A No.
- (6) Q Did you know that there was a thermal oxidizer
- (7) sitting in the garage out there for a few
- (8) years?
- (9) A No.
- (10) Q Know anything about that?
- (11) A No.
- (12) Q Do you know anything about how barges are
- (13) vented?
- (14) A No.
- (15) Q Did you ever smell any chemicals when you
- (16) worked out there?
- (17) A No.
- (18) Q Not once?
- (19) A No.
- (20) Q Okay. And -
- (21) A Paint.
- (22) Q You smelled paint?
- (23) A You know, if somebody was painting, I can
- (24) smell it.
- (25) Q Okay. What about sandblasting operations?

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- (1) Did you ever see any sandblasting operations
- (2) out there?
- (3) A Yes.
- (4) Q Where did you see sandblasting operations?
- (5) A Out in the yard.
- (6) Q Where the barges were pulled up out of the
- (7) waterway?
- (8) A No.
- (9) Q Where they were still in the water?
- (10) A There were no barges.
- (11) Q I'm sorry. There were no barges sandblasted
- (12) while you were out there?
- (13) A No.
- (14) Q What kind of sandblasting did you see, tanks?
- (15) A No. Pipe.
- (16) Q Okay.
- (17) A Sandblasting some pipe.
- (18) Q Okay.
- (19) A By the warehouse or the shop, the shop.
- (20) Q No barges were sandblasted, to your knowledge,
- (21) while you worked out there?
- (22) A I don't know.
- (23) Q You don't remember seeing any?
- (24) A No. That's not part of my job.
- (25) Q I understand. And I'm really not asking you

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- (1) with relation to it being - I understand
- (2) you're not a sandblaster and it's not part of
- (3) your job. But you don't close your eyes,
- (4) either, while you're out there the whole time.
- (5) A No.
- (6) Q And I'm asking you if you ever saw any
- (7) sandblasting operations going on out there?
- (8) A You're asking me if I saw sandblasting of a
- (9) barge?
- (10) Q Yes, ma'am.
- (11) A No, I have not seen a barge being sandblasted.
- (12) Q Okay. Have you ever seen any of the waste
- (13) water disposed of?
- (14) MR. DOMNING: Object. I'm going
- (15) to object to that question as being vague.
- (16) MR. McDOWELL: I'll take one of
- (17) you all. I don't care which one plays, but
- (18) only one of you gets to play. But one of you
- (19) has to be quiet and I'll take one of you. You
- (20) all can take any kind of time you need to talk
- (21) about it, but I'm not going to listen to two
- (22) lawyers yanking at me about it.
- (23) MR. STANFILL: Fair enough.
- (24) Vagueness.
- (25) MR. McDOWELL: Pardon?

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- (1) MR. STANFILL: We have a vagueness
- (2) objection.
- (3) MR. McDOWELL: Would you read it
- (4) back.
- (6) (The requested material was read.)
- (8) Q (BY MR. McDOWELL) Do you know what I mean by
- (9) waste water?
- (10) A Waste water to me is like water after you wash
- (11) your hands. That is a form of waste water.
- (12) Q Okay.
- (13) MR. STANFILL: Break it down.
- (14) Q (BY MR. McDOWELL) I'm really not trying to be
- (15) coy with you about it, Ms. Millsap. I'm
- (16) trying to find out about the barge cleaning
- (17) operation at Hercules.
- (18) A I understand.
- (19) Q And the waste water I'm referring to is the
- (20) water that they used to clean barges.
- (21) A Okay.
- (22) Q They do hot cleaning out there, they do cold
- (23) cleaning out there, and they do spray kinds of
- (24) cleaning out there. Do you understand that?
- (25) Were you aware of that?

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- (1) A I've seen the terms.
- (2) Q Okay. Have you ever seen any operation
- (3) happen? Have you ever physically watched the
- (4) operation?
- (5) A No.
- (6) Q Okay. Have you ever seen water pumped out of
- (7) the barges?
- (8) A No.
- (9) Q Have no idea where it goes?
- (10) A No.
- (11) Q Have you seen the storage tanks out there that
- (12) they hold waste water in?
- (13) A No.
- (14) Q Don't know whether it goes in the storage
- (15) tanks or not?
- (16) A No.
- (17) Q Have you ever seen --
- (18) A Hold on. Well, no. The answer is no because
- (19) I do not know that it goes into a storage
- (20) tank.
- (21) Q Okay.
- (22) A I will tell you that Reclaim picks up waste
- (23) water and there are records to that fact, if
- (24) you're trying to find out how waste water is
- (25) disposed of.

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- (1) Q Yes.
- (2) A Okay.
- (3) Q What companies picked up the waste water?
- (4) A Reclaim.
- (5) Q Is that a company in Houston?
- (6) A Yes.
- (7) Q Do you know where they're located?
- (8) A I don't recall the address. It's on the
- (9) records.
- (10) Q Did you participate in any way in filling out
- (11) the paperwork to the State with regard to how
- (12) many gallons of waste water were disposed of?
- (13) A Yes.
- (14) Q And how did you fill out that form? Where did
- (15) you get the information to put on that form?
- (16) A From the records, from file records.
- (17) Q And the file records that you're talking about
- (18) were the gallons of waste water that you were
- (19) billed by Reclaim?
- (20) A Not necessarily billed. The process is
- (21) Reclaim comes in to pick up the waste water.
- (22) There is a -- it's a big truck. They go out
- (23) into the yard. Water is -- I don't know how
- (24) they pick it up, okay? I know it's in a
- (25) truck. That's all I know.

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- (1) When they finish that, they come
- (2) into the office with the proper paperwork. It
- (3) is a waste manifest sheet, I believe. It is,
- (4) I believe, a State form. And they note how
- (5) many gallons they picked up, the date, the
- (6) time, the person involved, and then I look --
- (7) and it is more than one piece of paper.
- (8) Then I look at that and then I
- (9) sign that it was done and the date. And then
- (10) a purchase order number is assigned. They
- (11) take a copy. We keep a copy. And from those
- (12) copies are how we account for the waste water
- (13) which has been disposed of or picked up by
- (14) Reclaim.
- (15) Q Were there any other companies besides Reclaim
- (16) involved in the picking up of waste water?
- (17) A Of waste water? When?
- (18) Q During the time that you worked there.
- (19) A During the time that I worked there. Reclaim.
- (20) There was one in December, I believe.
- (21) Q December of '97?
- (22) A You're talking about waste water, though,
- (23) right?
- (24) Q Yes, ma'am. What are you talking about?
- (25) A Well, there was another -- well, I don't know

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- (1) if that was waste water. But anyway.
- (2) Q There was another company that picked
- (3) something up out there and you don't know if
- (4) it's waste water or not? Is that what you're
- (5) saying?
- (6) A We're talking about 1997, right?
- (7) Q Well, really, from the time that you worked
- (8) there.
- (9) A Yeah. No. I think it's just been Reclaim.
- (10) It's just been Reclaim because that is the
- (11) paperwork that I did for the year 1996. So
- (12) I've only done one of those reports. Okay?
- (13) Q Was it your understanding that Mr. Casale
- (14) filed some sort of complaint that led to the
- (15) TNRCC coming out and doing this investigation
- (16) in May?
- (17) A No. I don't know why they were out there.
- (18) Q Did anybody ever tell you that?
- (19) A No.
- (20) Q Mr. Ballinger never said anything to you that
- (21) this is somehow or another the result of Mr.
- (22) Casale's complaint?
- (23) A No, he didn't. I made a statement to him that
- (24) it was probably Mr. Casale.
- (25) Q Do you know now whether or not that was true?

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- (1) A I don't know.
- (2) Q So you made that statement to Mr. Ballinger
- (3) without knowing whether it was true or not?
- (4) A Well, I'm going to incriminate myself,
- (5) probably, but yes, I did.
- (6) Q Okay. Do you know anyone - did you say that
- (7) to anyone else besides Mr. Ballinger?
- (8) A What do you mean to anyone else?
- (9) Q Did you tell anyone else that?
- (10) A Not that I remember.
- (11) Q Tell me who Dr. Harry Walker is.
- (12) A I don't know.
- (13) Q Don't have any idea who he is?
- (14) A I've seen the name but I don't know who he is.
- (15) Q Did you ever meet him?
- (16) A No.
- (17) Q Did you ever see him out at the Hercules
- (18) facility?
- (19) A No.
- (20) Q What about Eric Moore?
- (21) A Yes.
- (22) Q Who is Eric Moore?
- (23) A Eric is - I believe he's a chemist.
- (24) Q What does he do with regard to Hercules?
- (25) A He checks barges for safe entry, proper work

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- (1) procedures. That's my understanding. I mean,
- (2) that's what I think. I don't know.
- (3) Q Did he work as a consultant for Hercules or
- (4) for Hercules' customers?
- (5) A I don't know.
- (6) Q Did you ever pay any bills to Mr. Moore?
- (7) A Yes.
- (8) Q What about Gerald Brewer?
- (9) A I don't know who he is.
- (10) Q What about Charlie Bennett?
- (11) A I don't know who he is.
- (12) Q Have you ever heard of Caleb Brett
- (13) Inspections?
- (14) A I've seen the name, but I don't know who they
- (15) are.
- (16) Q Have you ever heard of Intertech Testing
- (17) Services?
- (18) A No.
- (19) Q Did you ever have a conversation with Robert
- (20) Peters about BASF barges?
- (21) A No.
- (22) Q Do you know who -
- (23) A Well, wait a second. Rephrase that. What do
- (24) you want to know?
- (25) Q Well, I just want to know if you and Mr.

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- (1) Peters ever talked about the BASF barges and
- (2) what was contained in them and what the
- (3) paperwork showed or anything like that?
- (4) A Well, of course I did.
- (5) Q Okay.
- (6) A Mr. Peters would call in a job order and I
- (7) would ask him what did the barge contain.
- (8) That's part of the process.
- (9) Q Okay. Is that something that would happen
- (10) each time BASF brought a barge in?
- (11) A Yes.
- (12) Q And what paperwork would you fill out that
- (13) indicated what the contents of the barge were?
- (14) A I would fill out a job work order form. I
- (15) would log it in in a Hercules form, assign it
- (16) a job order number, note the specific request
- (17) that - of the work that needed to be done to
- (18) the barge, you know, who called it in -
- (19) usually it was Robert Peters - when - you
- (20) know, what the turnaround time was and when it
- (21) would be arriving.
- (22) Q Did you ever have any conversations with Mr.
- (23) Peters with regard to turnaround time that
- (24) depended in any way on which way the wind was
- (25) blowing?

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- (1) A What do you mean by that?
- (2) Q Well, did the direction of the wind make any
- (3) difference to you in how long it took to turn
- (4) around a barge?
- (5) A I didn't have those conversations with him.
- (6) My job was office administrative-wise.
- (7) Q I understand.
- (8) A When I said turnaround time, I mean do you
- (9) need it tomorrow or do you need it two days
- (10) from today? And that's all.
- (11) Q What was the turnaround time generally of a
- (12) barge that BASF might bring in?
- (13) A Oh, gosh. Usually, it was ballasting or
- (14) deballasting, maybe a day.
- (15) Q So if BASF called you -
- (16) A Depended.
- (17) Q If Peters called you and said I need a barge
- (18) cleaned and I need it back in 24 hours, was
- (19) there ever a time when you could not do that
- (20) for him?
- (21) A I don't know that because I wasn't involved in
- (22) the specific operation of cleaning the barge.
- (23) Q I understand. But you would be the one that
- (24) would answer the phone when he would call?
- (25) A Usually.

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- (1) Q And what I'm trying to find out is if there
- (2) were any times that you can remember when he
- (3) needed one in 24 or 48 hours, and for reasons
- (4) of the weather, you couldn't give it to him,
- (5) you being Hercules, that they couldn't do it?
- (6) A One time there was the gas compressor or
- (7) something was not working, so it delayed -
- (8) Q An equipment failure?
- (9) A Yes.
- (10) Q Okay. Did Mr. Peters ever complain to you
- (11) that the barges were being kept too long as a
- (12) result of wind direction? Did he ever
- (13) complain?
- (14) A Not that I'm aware of.
- (15) Q You're looking at me kind of -
- (16) A I'm trying to understand your question and why
- (17) you're asking me that.
- (18) Q Well, the reason I'm asking this is because
- (19) you're the person who would answer the phone
- (20) and hear the complaint if there was a
- (21) complaint, right? Aren't you?
- (22) A No.
- (23) Q Okay. Mr. Ballinger would hear the complaint?
- (24) A If - yeah, Larry or someone out in the area.
- (25) Q Okay. But in terms of - did you talk to Mr.

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- (1) Peters on a once-a-week kind of basis?
- (2) A Depended if he had work.
- (3) Q Sometimes once or twice a week, sometimes not
- (4) at all?
- (5) A Yeah, not at all, yes.
- (6) Q In any of the times that you talked with Mr.
- (7) Peters, did he ever complain to you that you
- (8) all were keeping barges too long?
- (9) A No.
- (10) Q That was never a complaint?
- (11) A No.
- (12) Q Did Mr. Peters ever indicate to you that you
- (13) would be getting more work if it wasn't for
- (14) Mr. Casale?
- (15) A No.
- (16) Q As far as you knew, were you getting all -
- (17) was Hercules getting all of BASF's work or do
- (18) you know?
- (19) A No.
- (20) Q Who else was getting it?
- (21) A I don't know what the business is called.
- (22) Mickey somebody.
- (23) Q Mickey Tiner?
- (24) A Yeah.
- (25) Q Does that sound familiar?

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- (1) A Yeah.
- (2) Q Do you know Mr. Tiner?
- (3) A No, I don't.
- (4) Q Do you know of his company, Texas Boat &
- (5) Barge?
- (6) A I just know he has a company. That's all.
- (7) Q That's a competitor of Hercules?
- (8) A Yes.
- (9) Q Do you know whether or not Mr. Tiner has ever
- (10) made any complaints about Hercules?
- (11) A Did I know specifically, no.
- (12) Q Do you have hearsay information about that,
- (13) Ms. Millsap?
- (14) A Yes.
- (15) Q Who has told you that?
- (16) A Some of the workers.
- (17) Q Who?
- (18) A Oh, Juan and Claudio.
- (19) Q Claudio Duarte?
- (20) A Daniel and Sam.
- (21) Q Okay. Juan is Juan Francisco -
- (22) A Juan Riverra.
- (23) Q Who is Juan Francisco Gonzales?
- (24) A I don't know.
- (25) Q You said Daniel. Who's that?

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- (1) A Hernandez.
- (2) Q And they have --
- (3) A The welding foreman.
- (4) Q What about Jesse Camacho?
- (5) A I don't know him.
- (6) Q Those fellows that you mentioned, though, had
- (7) told you that Mickey Tiner --
- (8) A Just office talk.
- (9) Q And the office talk was that Mickey Tiner had
- (10) said what about who?
- (11) A He used to work there, apparently, and I think
- (12) he's very unhappy. I don't know the
- (13) specifics. But that's -- you know, it's
- (14) hearsay. And I don't know him. I don't even
- (15) know where his business is. It is just
- (16) people's feelings, okay? That's all.
- (17) Q I'm sorry that I have to ask you detailed
- (18) questions about it, but I do.
- (19) A That's okay.
- (20) Q When people would express their feelings, what
- (21) would they say?
- (22) A Just that Mickey is just, you know, trying to
- (23) hurt the company, trying to get some of the
- (24) business, just kind of a vague statement.
- (25) Q When were those statements made?

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- (1) A Oh, gosh.
- (2) Q Have they been made the whole time you worked
- (3) out there?
- (4) A No. No. No. It was just made once.
- (5) Q Okay.
- (6) A And this was like in, I think, November
- (7) sometime.
- (8) Q Of last year?
- (9) A Uh-huh.
- (10) Q 1997?
- (11) A '97. When it made the media, that's when the
- (12) statements were made.
- (13) Q Are you talking about when the statements --
- (14) A When it hit the press and everything.
- (15) Q I don't know that I asked you about Juan
- (16) Riverra, but his name came up a minute ago.
- (17) What was Juan Riverra's position?
- (18) A Barge cleaner, I believe.
- (19) Q And was he terminated January 14th, as well?
- (20) A We were laid off. There's a difference.
- (21) Q Have you been paid by Hercules since January
- (22) 14th?
- (23) A No.
- (24) Q Are you working yet?
- (25) A No.

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- (1) Q Are you looking for a job?
- (2) A Yes. Do you need a secretary?
- (3) Q Can you drive to Houston? Let's take just a
- (4) couple of minutes and let me look through my
- (5) notes and you can get up and stretch and make
- (6) a phone call if you need to.
- (7) (Whereupon, a recess was held.)
- (8) Q (BY MR. McDOWELL) Ms. Millsap, you had
- (9) mentioned earlier about the people that you
- (10) had spoken to from Dow with regard to them not
- (11) doing business with Hercules.
- (12) A Uh-huh.
- (13) Q Did you speak to them about this subject while
- (14) you worked at Hercules?
- (15) A Yes.
- (16) Q And do you know when the last time Hercules
- (17) had cleaned a Dow barge?
- (18) A No. I just remember seeing it on records.
- (19) But I don't recall the year.
- (20) Q It's true, is it not, that during your entire
- (21) employment with Hercules, Hercules never
- (22) cleaned a Dow barge?
- (23) A That's true.

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- (1) Q So why is it that you would be talking to
- (2) these Dow people on the phone?
- (3) A Why?
- (4) Q Yes, ma'am.
- (5) A Because I am very involved in the community
- (6) and they are friends of mine. And I was
- (7) called to Arnold's retirement and that's how
- (8) that conversation happened. And then Sam and
- (9) I and other folks were celebrating our
- (10) birthdays. And the subject came up.
- (11) Q So these are people that have told you in a
- (12) social environment about Dow not doing
- (13) business with Hercules?
- (14) A Yes.
- (15) Q And would that be true for both Sam and
- (16) Arnold?
- (17) A Yes.
- (18) Q These guys were friends of yours while you
- (19) worked at Dow?
- (20) A Arnold, yes, but I never saw them. They were
- (21) acquaintances. Sam was an acquaintance.
- (22) Arnold is a friend.
- (23) Q And Arnold is the one who you went to the
- (24) retirement party for?
- (25) A I didn't go to the retirement party.

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- (1) Q I'm sorry. You said something about a
- (2) retirement party.
- (3) A Yes. He was retiring from the company and I
- (4) had been told. So I called to wish him well
- (5) and tell him that I was not going to be able
- (6) to be there. And then we got to talking about
- (7) what I was doing.
- (8) Q Do you know what Sam's job was at Dow when he
- (9) told you that?
- (10) A Sam, I believe superintendent level,
- (11) environmental, something like that. I'm not
- (12) sure.
- (13) Q Did he have anything to do with the
- (14) barge-cleaning decisions or do you know?
- (15) A I don't know.
- (16) Q What about Arnold Langston's job at Dow?
- (17) A He was a - well, what they called like a
- (18) shift foreman.
- (19) Q Over -
- (20) A In the marine department.
- (21) Q Did he have something to do with the
- (22) barge-cleaning decisions?
- (23) A I don't know.
- (24) Q You don't know whether those were his
- (25) decisions or not?

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- (1) A I don't know.
- (2) Q When you talked to either one of these fellows
- (3) about Hercules, did any of them, either one of
- (4) them tell you who at Dow had actually made
- (5) that decision?
- (6) A No.
- (7) Q But was it your understanding from your
- (8) conversation with them that that decision not
- (9) to do business with Hercules had taken place
- (10) years before?
- (11) A Ask me that again.
- (12) Q Was it your understanding from talking to
- (13) these fellows at Dow that the decision not to
- (14) do business with Hercules had actually taken
- (15) place years before or do you know when?
- (16) A I don't know.
- (17) Q How did you respond to Sam or Arnold when they
- (18) told you why Dow wouldn't do business with
- (19) Hercules? What did you say? Do you remember?
- (20) A What do you mean?
- (21) Q Well, how did you respond?
- (22) A They didn't make a statement. It was a
- (23) conversation.
- (24) Q Okay.
- (25) A So there was - you know, it wasn't like Dow

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- (1) isn't doing business with Hercules because of,
- (2) what do you think? It wasn't that type of a
- (3) conversation.
- (4) Q Tell me how the conversation went, then,
- (5) because maybe I misinterpreted what you said
- (6) earlier. I thought that I had asked you the
- (7) question: Did you have any information from
- (8) anyone who had told you their company had quit
- (9) doing business with Hercules because of
- (10) complaints made by the Casales?
- (11) A Yes, you did ask me that.
- (12) Q And I thought you affirmatively answered in
- (13) response to that that these two fellows had.
- (14) A Yes, they told me that in the course of a
- (15) conversation.
- (16) Q Can you tell me any more detail about the
- (17) conversation?
- (18) A Okay. With Arnold Langston - I can't give
- (19) you, you know, word for word. But I can give
- (20) you a general conversation that when there was
- (21) a Dow barge at Hercules, Mr. Casale would call
- (22) Dow, you know, and would complain, you know,
- (23) about, you know, the work that was being done,
- (24) you know, at Hercules, that he complained
- (25) quite a bit. Okay. This is Arnold's piece of

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- (1) the conversation.
- (2) And with Sam, Sam's job entailed
- (3) him being aware every time a complaint would
- (4) come in to the marine department. And it was
- (5) his duty to, you know, fill out a report or
- (6) log it. And that is how that conversation
- (7) went and that he said, you know, Mr. Casale,
- (8) you know, was, you know, part of the reason
- (9) that Dow did not give Hercules any more
- (10) business. Dow is a major company and they
- (11) don't want negative publicity. That's how
- (12) that conversation went.
- (13) Q Did either of them mention anyone besides -
- (14) did they mention Mr. Casale by name?
- (15) A Yes.
- (16) Q And did they mention any of the other
- (17) neighbors?
- (18) A No.
- (19) Q Okay. Do you know whether or not any other
- (20) neighbors ever complained?
- (21) A No.
- (22) Q Are you assuming they did not?
- (23) A I don't know.
- (24) Q Okay. Do you know of any petitions that were
- (25) filed or served upon anyone with regard to the

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- (1) neighborhood?
- (2) A No.
- (3) Q Okay. Have you ever heard of that?
- (4) A Of what?
- (5) Q That there were any petitions signed by the
- (6) neighbors?
- (7) A No.
- (8) Q When you answered the telephone at Hercules,
- (9) did anyone ever complain to you of any kind of
- (10) sandblasting debris, odor, or discharge of
- (11) water?
- (12) A Since I was employed there, no, sir.
- (13) Q No one ever called and complained to you?
- (14) A Never had a complaint, huh-uh.
- (15) Q And you wouldn't know anything about prior to
- (16) the time you were there?
- (17) A No.
- (18) Q Does Hercules keep a written record of
- (19) complaints?
- (20) A I don't know if -- if I would have received a
- (21) complaint, you know, I would have logged it in
- (22) and I would have made --
- (23) Q Where would you have logged it in?
- (24) A Where would I?
- (25) Q Yes, ma'am.

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- (1) A I would have set up a file on complaints and I
- (2) would have logged it and I would have let
- (3) Larry or whoever the manager was know. That's
- (4) what I would do with that. And then I would
- (5) put a file -- a copy in that file. That's
- (6) what I would do.
- (7) Q To your knowledge, there never really was a
- (8) complaint file?
- (9) A Not while I was there.
- (10) Q Well, did you see one there from previously
- (11) filed complaints?
- (12) A Yes, sir. I told you earlier I read
- (13) correspondence on complaints that he had made.
- (14) Q You're talking about the -- I think you told
- (15) me there were three occasions that you were
- (16) familiar with?
- (17) A Written.
- (18) Q Were there any other complaints other than
- (19) those three occasions that Mr. Casale had
- (20) complained?
- (21) A I don't know.
- (22) Q None that you can recall?
- (23) A No, none that I can recall. I really -- well,
- (24) I don't really know.
- (25) Q Because, of course, you weren't there?

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- (1) A Exactly.
- (2) Q And there were not any files that detailed any
- (3) complaints back beyond what we've talked
- (4) about?
- (5) MR. STANFILL: That she recalls.
- (6) A Well, no. There are files. There's -- there
- (7) is some paperwork on complaints. But the ones
- (8) that I saw were -- or just kind of glanced at
- (9) were roughly three because I was gathering
- (10) information.
- (11) Q (BY MR. McDOWELL) When you held your hands to
- (12) show me that there were files with regard to
- (13) complaints, you were holding them an inch or
- (14) two thick.
- (15) A It's about that -- it was a stack about like
- (16) that.
- (17) Q Is that an inch or two thick or am I --
- (18) A Well, I don't know. Whatever it is you think
- (19) it is. I don't know.
- (20) Q Well, I wanted to know what you think it is.
- (21) And were there complaints in there from people
- (22) other than Mr. and Mrs. Casale?
- (23) A No, sir.
- (24) Q You don't know of any or --
- (25) A I didn't see any.

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- (1) Q Okay. But what you glanced at you think were
- (2) three specific complaints that all related to
- (3) Mr. Casale?
- (4) A Yes.
- (5) Q Did you see any files or review any materials
- (6) that were regarding any earlier citations or
- (7) infractions by TNRCC or any regulatory
- (8) authority?
- (9) A No.
- (10) Q Never saw anything like that?
- (11) A Not me.
- (12) Q Okay. Tell me who Hercules cleaned barges for
- (13) while you worked there besides BASF, what
- (14) companies?
- (15) A When you say cleaned barges --
- (16) Q Or serviced, sandblasted, did the cleaning
- (17) process. I know you don't know of any
- (18) sandblasting, so it would just be cleaning
- (19) process or service work on barges.
- (20) A When you say service work, I'm going to take
- (21) that -- are you talking about mechanical
- (22) repairs?
- (23) Q Sure.
- (24) A Okay. I'll just name some, you know,
- (25) companies that we served their barges. I

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- (1) believe one of them is Megafleet out of
- (2) Pasadena.
- (3) Q What kind of work generally did you do for
- (4) Megafleet, if you can tell me?
- (5) A Repair a broken wheel, repair engine, you
- (6) know. The records are in the files.
- (7) Q Sure.
- (8) A I'm trying to remember these companies' names.
- (9) We did some work for Dixie, filled nitrogen
- (10) bottle several times. There was Megafleet.
- (11) Of course, we've got BASF. I'm sorry. The
- (12) name is on the tip of my tongue. Duval, I
- (13) believe, Duval Towing, No. Duval Company.
- (14) We stripped the bilge. We also did the City
- (15) of Freeport, which is, I believe, part of
- (16) Dixie. Okay. That's stripping the bilge. I
- (17) think basically - then BASF, ballasting,
- (18) deballasting, repairing a pump.
- (19) Q Any other customers that you can think of?
- (20) A There are others but not that I can think of.
- (21) The business just declined, you know.
- (22) Q After you left Hercules, on how many occasions
- (23) have you talked with Mr. Stanfill?
- (24) A I never - once.
- (25) Q Yesterday?

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- (1) A Yesterday.
- (2) Q Okay. And were you ever requested to come
- (3) give a deposition without a subpoena being
- (4) issued? I just want you to know I asked for
- (5) that and I was told I had to subpoena you. I
- (6) didn't mean to have a fellow come out and
- (7) serve you.
- (8) A I know. And he just did it like Monday
- (9) evening.
- (10) Q I didn't have a choice because I asked for you
- (11) to come voluntarily and they told me -
- (12) A Nobody ever -
- (13) Q Nobody ever asked you that?
- (14) A Well, I have been gone for two weeks, but I
- (15) didn't have a message, so I don't know.
- (16) Q Okay.
- (17) MR. McDOWELL: Those are all the
- (18) questions I have. Thank you.
- (19) THE WITNESS: May I make a
- (20) statement for the record?
- (21) MR. McDOWELL: If you would like,
- (22) it's fine with me.
- (23) THE WITNESS: Since I went to work
- (24) for Hercules and since I have been there, our
- (25) records were kept, you know, in order. I

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- (1) tried to keep accurate records. You could go
- (2) into the file and find anything that you
- (3) wanted to find. If you wanted a piece of
- (4) information from the TNRCC, I could grab it
- (5) just, you know, at a moment's notice.
- (6) The - I personally feel that it
- (7) was a good business for the community. It
- (8) employed workers who needed jobs desperately
- (9) who are now unemployed because of unfortunate
- (10) circumstances.
- (11) Hercules also was a part of the
- (12) community. They were part of the Chamber of
- (13) Commerce, the Brazosport Chamber of Commerce.
- (14) They were part of a maritime issues committee.
- (15) I was allowed to represent the company as an
- (16) ambassador for the chamber. And I did it
- (17) proudly.
- (18) My personal opinion and feelings,
- (19) I am very disappointed that Mr. Casale has
- (20) to - or is having to seek answers in the
- (21) manner in which they're being done. The doors
- (22) have always - since I have been there would
- (23) have been open and have, you know, in the
- (24) past.
- (25) I believe Mr. Seward had, you

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- (1) know, good plans or future plans. And I think
- (2) it's unfortunate that several of us are
- (3) without jobs. And that's all I have to say.
- (4) MR. McDOWELL: Object as not
- (5) responsive to a question, but I'm sorry you
- (6) don't have a job, either.
- (7) Q (BY MR. McDOWELL) Are you suggesting by that
- (8) statement that somehow or another you believe
- (9) that Hercules is now out of business as a
- (10) result of Mr. and Mrs. Casale?
- (11) A I personally believe - these are my personal
- (12) feelings as somebody that is involved in the
- (13) community, as somebody that reads the
- (14) newspapers, as someone that has - I just feel
- (15) that some of - yes, I feel some of it is
- (16) because of all the complaints.
- (17) Q Do you believe that Mr. Casale somehow or
- (18) another made Mr. Ballinger forge reports and
- (19) send them off to the State agency?
- (20) MR. STANFILL: Objection;
- (21) argumentative.
- (22) Q (BY MR. McDOWELL) I mean, do you believe
- (23) that?
- (24) A Sir, nobody can make anybody do anything
- (25) unless - that's their choice.

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- (1) Q You believe that these criminal indictments
- (2) are somehow the result of Mr. and Mrs. Casale?
- (3) A Do you really want me to answer that?
- (4) Q Yes, ma'am, I do.
- (5) A Yes, I do.
- (6) MR. McDOWELL: Okay. Thanks.
- (7) THE WITNESS: You're welcome
- (10) EXAMINATION
- (11) BY MR. STANFILL:
- (12) Q Gloria, the statement that you made earlier,
- (13) does that accurately reflect the - your
- (14) perception of the operations of Hercules while
- (15) you were there?
- (16) A Yes.
- (17) MR. McDOWELL: Object to the form
- (18) of the question; no foundation for it.
- (19) Q (BY MR. STANFILL) And do you adopt the
- (20) statement that you made earlier to Mr.
- (21) McDowell here as an accurate reflection of
- (22) your feelings about the entire situation that
- (23) Mr. McDowell has been questioning you about
- (24) all day?
- (25) A What?

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- (1) Q In other words, the statement that you made
- (2) earlier, do you adopt that as an accurate
- (3) reflection of your feelings about the entire
- (4) situation that Mr. McDowell has been
- (5) questioning you about today?
- (6) A Yes.
- (7) MR. McDOWELL: Same objection.
- (8) It's leading.
- (9) MR. STANFILL: That's all I've
- (10) got. Thanks.

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- (1) (SIGNATURE PAGE FOR THE DEPOSITION OF
- GLORIA MILLSAP - FEBRUARY 11, 1998)
- I, GLORIA MILLSAP, do hereby certify that I
- (3) have read the foregoing transcript and that the same
- and accompanying amendment sheets, if any,
- (4) constitute a true and complete record of my
- testimony.
- (6) Signature of the witness
- (9) THE STATE OF TEXAS :
- COUNTY OF HARRIS :
- (11) SUBSCRIBED AND SWORN to before me, the
- (12) undersigned authority, on this the day
- (13) of , 1998.
- (16) Notary Public in Harris County
- (17) For the State of Texas
- (18) My Commission expires
- (23) No Changes Made Amendment Sheet(s) Attached
- Hercules Marine Services Corporation vs. Bob Casale

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- (1) THE STATE OF TEXAS :
- (2) COUNTY OF HARRIS :
- (3) REPORTER'S CERTIFICATION TO THE
- DEPOSITION OF GLORIA MILLSAP
- (4) TAKEN ON FEBRUARY 11, 1998
- (5) I, Barbara DeVaney, Certified Shorthand
- Reporter and notary public in and for the
- (6) State of Texas, hereby certify that this
- deposition transcript is a true record of the
- (7) testimony given by the witness named herein,
- after said witness was duly sworn by me.
- I further certify that I am neither attorney
- (9) nor counsel for, nor related to, nor employed
- by any of the parties to the action in which
- (10) this deposition is taken and, further, that I
- am not a relative or employee of any counsel
- (11) employed by the parties hereto, nor
- financially interested in the action.
- Further certification requirements, if any,
- (13) pursuant to the rules will be certified to in
- the supplemental certificate after they have
- (14) occurred.
- (15) SUBSCRIBED AND SWORN TO on this, the 16th day
- of February, A.D., 1998.
- (18) Barbara DeVaney
- Certified Shorthand Reporter No. 678
- (19) For the State of TEXAS.
- (20) Business Address: 3730 Kirby, Suite 420,
- Houston, TX 77098
- (21) Expiration of current certification: Dec. 31, 1998
- My Notary Public Commission expires: August 1, 2000

Look-See Concordance Report

UNIQUE WORDS: 939

TOTAL

OCCURRENCES: 2,895

NOISE WORDS: 385

TOTAL WORDS IN

FILE: 11,320

SINGLE FILE
CONCORDANCE

CASE SENSITIVE

NOISE WORD LIST(S):
NOISE.NOIEXCLUDES
OCCURRENCES IN
FIRST 4 PAGESINCLUDES ALL TEXT
OCCURRENCESIGNORES PURE
NUMBERSWORD RANGES @
BOTTOM OF PAGEMAXIMUM TRACKED
OCCURRENCE
THRESHOLD: 50NUMBER OF WORDS
SURPASSING
OCCURRENCE
THRESHOLD: 2LIST OF THRESHOLD
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